



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/880,723	06/12/2001	Martin K. Tarvydas	INFS-1-16372	4943
20322	7590	10/18/2005	EXAMINER	
SNELL & WILMER ONE ARIZONA CENTER 400 EAST VAN BUREN PHOENIX, AZ 850040001			RHODE JR, ROBERT E	
		ART UNIT	PAPER NUMBER	
		3625		

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/880,723	TARVYDAS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rob Rhode	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 September 2005.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-51 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-51 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-21-05 has been entered.

***Response to Amendment***

Applicant amendment of 9-21-05 amended claims 1, 22, 31, 39, 40, 45, 46, 47 and 50 - 51 and 29 as well as traversed rejections of Claims 1 - 51.

Currently, claims 1- 51 are pending.

***Election/Restrictions***

The current amendment has introduced new features, which change the scope of the independent claims. In that regard with the change of scope and in further consideration of the claims, the Examiner has determined a need for Restriction Requirement, which follows.

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 – 30, 40 – 46, 48 - 49 and 50 - 51, drawn to a method, apparatus, server and medium of processing product orders, via a network, to allow consumers to order products from a plurality of merchants from a web page comprising a consistent user interface, which retrieves a universal shopping cart, adds selected products to the universal shopping cart and injects a product order to one of a plurality of merchants, classified in class 705, and subclass 26.
- II. Claims 31 - 38, drawn to a method of ordering products from a shopping site having a web page comprising a consistent user interface that provides information on a plurality of product types from a plurality of merchants, which includes adding selected product corresponding to selected product type and selected merchant to a universal shopping cart and repeating until a check out command is received, classified in class 70, subclass 218.
- III. Claims 39 and 47, drawn to a method and medium of providing a web page comprising a consistent user interface to allow consumers to order products via a network, which includes providing a window for the consumer to browse information from a plurality of merchants and the plurality of merchants including non-affiliated merchant as well as providing a universal shopping cart check out link for checking out the

universal shopping cart without directing the consumer to selected merchant's site, classified in class 709, subclass 203.

Inventions Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group II has separate utility such as requiring a method of ordering products from a shopping site having a web page comprising a consistent user interface that provides information on a plurality of product types from a plurality of merchants, which includes adding selected product corresponding to selected product type and selected merchant to a universal shopping cart and repeating until a check out command is received. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Inventions Groups I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group III has separate utility such as requiring a method and medium of providing a web page

comprising a consistent user interface to allow consumers to order products via a network, which includes providing a window for the consumer to browse information from a plurality of merchants and the plurality of merchants including non-affiliated merchant as well as providing a universal shopping cart check out link for checking out the universal shopping cart without directing the consumer to selected merchant's site. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Inventions Groups II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group III has separate utility such as requiring a method and medium of providing a web page comprising a consistent user interface to allow consumers to order products via a network, which includes providing a window for the consumer to browse information from a plurality of merchants and the plurality of merchants including non-affiliated merchant as well as providing a universal shopping cart check out link for checking out the universal shopping cart without directing the consumer to selected merchant's site. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Species***

***In the event the applicant elects Group I above, the applicant is further obligated to elect among the following species as follows:***

This application contains claims directed to the following patentably distinct species of the claimed invention:

- Ia. Species of claims 1 - 3, 6, 22 – 24, 27 and 48.
- Ib. Species of claims 1 - 3, 6, 22 – 24, 27 and 49.
- Ic. Species of claims 1 - 3, 9, 22 – 24, 27 and 48

Art Unit: 3625

- Id. Species of claims 1 - 3, 9, 22 – 24, 27 and 49.
- Ie. Species of claims 1 - 3, 10 - 11, 22 – 24, 27 and 48.
- If. Species of claims 1 - 3, 10 - 11, 22 – 24, 27 and 49.
- Ig. Species of claims 1 - 3, 12, 22 – 24, 27 and 48.
- Ih. Species of claims 1 - 3, 12, 22 – 24, 27 and 49.
- Ii. Species of claims 1, 2, 4 - 5, 6, 22 – 24, 27 and 48.
- Ij. Species of claims 1, 4 - 5, 6, 22 – 24, 27 and 49.
- Ik. Species of claims 1, 2, 4 - 5, 9, 22 – 24, 27 and 48.
- Im. Species of claims 1, 2, 4 - 5, 9, 22 – 24, 27 and 49.
- In. Species of claims 1, 2, 4 - 5, 10 - 12, 22 – 24, 27 and 48.
- In. Species of claims 1, 2, 4 - 5, 10 - 12, 22 – 24, 27 and 49.
- Io. Species of claims 1, 2, 6 – 8, 22 – 24, 27 and 48.
- Ip. Species of claims 1, 2, 6 – 8, 22 – 24, 27 and 49.
- Iq. Species of claims 1, 2, 7 – 9, 22 – 24, 27 and 48.
- Ir. Species of claims 1, 2, 7 – 9, 22 – 24, 27 and 49.
- Is. Species of claims 1, 2, 7 – 8, 10 – 11, 22 – 24, 27 and 48.
- It. Species of claims 1, 2, 7 – 8, 10 – 11, 22 – 24, 27 and 49.
- Iu. Species of claims 1, 2, 7 – 8, 12, 22 – 24, 27 and 48.
- Iv. Species of claims 1, 2, 7 – 8, 12, 22 – 24, 27 and 49.
- Iw. Species of claims 1, 2, 13 - 14, 22 – 24, 27 and 48.
- Ix. Species of claims 1, 2, 13 - 14, 22 – 24, 27 and 49.
- Iw. Species of claims 1, 2, 13, 15, 22 – 24, 27 and 48.

- ly. Species of claims 1, 2, 13, 15, 22 – 24, 27 and 49.
- Iz. Species of claims 1, 2, 13, 16, 22 – 24, 27 and 48.
- Ia'. Species of claims 1, 2, 13, 16, 22– 24, 27 and 49.
- Ib'. Species of claims 1, 2, 17 – 24, 27 and 48.
- Ic'. Species of claims 1, 2, 17 – 24, 27 and 49.
- Id'. Species of claims 1, 2, 22 – 25, 27 and 48.
- Ie'. Species of claims 1, 2, 22 – 25, 27 and 49.
- If'. Species of claims 1, 2, 22 – 24, 26 - 27 and 48.
- Ig'. Species of claims 1, 2, 22 – 24, 26 - 27 and 49.
- Ih'. Species of claims 1, 2, 22 – 24, 27 - 29 and 48.
- Ii'. Species of claims 1, 2, 22 – 24, 27 – 28, 30 and 48.
- Ij'. Species of claims 1, 2, 22 – 24, 27 – 28, 30 and 49.
- Ik'. Species of claims 1, 2, 22 – 24, 48 and 50 - 51.
- Ik'. Species of claims 1, 2, 22 – 24, 49 and 50 – 51.
- Im'. Species of claims 1, 40, and 41.
- In'. Species of claims 1, 40, and 42.
- Io'. Species of claims 1, 40, and 43.
- Im'. Species of claims 1, 40, and 44.

### ***Species***

***In the event the applicant elects Group III above, the applicant is further obligated to elect among the following species as follows:***

Art Unit: 3625

This application contains claims directed to the following patentably distinct species of the claimed invention:

IIIa. Species of claims 31 and 32.

IIIb. Species of claims 31 and 33

IIIc. Species of claims 31 and 34.

IIId. Species of claims 31 and 35.

IIIe. Species of claims 31 and 36.

IIIf. Species of claims 31 and 37.

IIIg. Species of claims 31 and 38.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently for Group I Claim 1 is generic and for Group III, Claim 31 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

**P.O. Box 1450**

**Alexandria, Va. 22313-1450**

or faxed to:

**571.273.8300** [Official communications; including

After Final communications labeled

"Box AF"]

[Informal/Draft communications, labeled

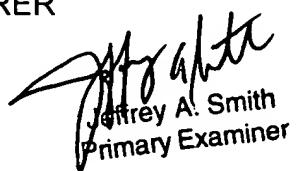
"PROPOSED" or "DRAFT"]

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RER

  
Jeffrey A. Smith  
Primary Examiner